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In re Application of
Jacob DeBaan
Application No. 10/662490
Filing or 371(c) Date: 09/15/2003
Attorney Docket Number:
BLUE.65449

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OFFICE OF PETITIONS

ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181(a)", filed August 24, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 29, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned April 30, 2007. A Notice of Abandonment was mailed August 21, 2007.

Applicant filed a petition on August 24, 2007, and asserted that a timely reply to the Office action, to wit – an Amendment, was filed on April 26, 2007, and received by this Office as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant filed a copy of the Amendment, and a copy of his return-receipt postcard acknowledging receipt by this Office of an Amendment on April 30, 2007.

A review of the Amendment revealed that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the Amendment was mailed to this Office on April 26, 2007. The Certificate of Mailing was executed by Susan P. Cueto.

While Applicant had filed sufficient evidence to demonstrate the filing of the Amendment, the date of the Amendment filing had not been adequately established. 37 CFR 1.8(b)(3) requires a statement which attests on a personal knowledge basis to the timely mailing of the Reply; however, a statement from Ms. Susan P. Cueto had not been provided. As such, it was unclear whether the reply was timely, or whether an extension of time and fee were required.

The petition was dismissed without prejudice.

Applicant files the present request for reconsideration of petition, and includes a statement from Ms. Cueto, which attests on a personal knowledge basis to the timely mailing of the Amendment.

The petition is granted.

The application will be referred to Technology Center Art Unit 3617 for processing of the amendment filed with the petition on August 24, 2007 (Certificate of Mailing dated April 26, 2007), and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



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Attorney
Office of Petitions